

Office of the Legislative Auditor

State of Montana



Report to the Legislature

December 1994

Financial-Compliance Audit For the Two Fiscal Years Ended June 30, 1994

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Department of Health and Environmental Sciences

This report contains 11 recommendations related to:

- ▶ The department's need to formalize, revise, distribute, and implement policies and procedures pertaining to:
 - ▶ payroll reporting,
 - ▶ subrecipient monitoring,
 - ▶ drug-free workplace, and
 - ▶ internal computer security.
- ▶ Water permit fee rules, procedures, and assessments.
- ▶ Compliance with state water and accounting law and policy.

Direct comments/inquiries to:
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Helena, Montana 59620-1705

FINANCIAL-COMPLIANCE AUDITS

Financial-compliance audits are conducted by the Office of the Legislative Auditor to determine if an agency's financial operations are properly conducted, the financial reports are presented fairly, and the agency has complied with applicable laws and regulations which could have a significant financial impact. In performing the audit work, the audit staff uses standards set forth by the American Institute of Certified Public Accountants and the United States General Accounting Office. Financial-compliance audit staff members hold degrees with an emphasis in accounting. Most staff members hold Certified Public Accountant (CPA) certificates.

The Single Audit Act of 1984 and OMB Circular A-128 require the auditor to issue certain financial, internal control, and compliance reports regarding the state's federal financial assistance programs, including all findings of noncompliance and questioned costs. This individual agency audit report is not intended to comply with the Single Audit Act of 1984 or OMB Circular A-128 and is therefore not intended for distribution to federal grantor agencies. The Office of the Legislative Auditor issues a statewide biennial Single Audit Report which complies with the reporting requirements listed above. The Single Audit Report for the two fiscal years ended June 30, 1993 has been issued. Copies of the Single Audit Report can be obtained by contacting:

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STATE OF MONTANA

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JOHN W. NORTHEY

December 1994

The Legislative Audit Committee
of the Montana State Legislature:

This is our financial-compliance audit report on the Department of Health and Environmental Sciences for fiscal years 1992-93 and 1993-94. Included in this report are recommendations concerning the department's need to formalize, revise, distribute, and implement policies and procedures regarding payroll reporting, subrecipient monitoring, drug-free workplace, and internal computer security; water permit fee rules, procedures, and assessments; and compliance with state water and accounting law and policy. The department's written response to the audit recommendations is included in the back of the audit report.

We thank the director and his staff for their cooperation and assistance throughout the audit.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Scott A. Seacat", written over a horizontal line.

Scott A. Seacat
Legislative Auditor

Office of the Legislative Auditor

Financial-Compliance Audit

For the Two Fiscal Years Ended June 30, 1994

Department of Health and Environmental Sciences

Members of the audit staff involved in this audit were Pearl M. Allen, Brenda Bokovoy, Cindy S. Jorgenson, Maureen G. Leo, Jim Manning, Patti J. Robertson, and Kris Wilkinson.

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Appointed and Administrative Officials

Board of Health and Environmental Sciences

Term Expires

Raymond W. "Rib" Gustafson, D.V.M., Chairman	Conrad	January 1, 1997
Verna M. Green	Helena	January 1, 1997
Paul L. Kathrein, O.D.	Great Falls	January 1, 1997
Frank Munshower, Ph.D.	Bozeman	January 1, 1997
Remington C. Kohrt	Whitefish	January 1, 1995
Dennis D. Schreffler, M.D.	Billings	January 1, 1995
Jeremy Thane	Missoula	January 1, 1995

Department of Health and Environmental Sciences

Bob Robinson, Director

Centralized Services Division

Charles F. "Chuck" Stohl, Acting Administrator

Summary of Recommendations

The listing below serves as a means of summarizing the recommendations contained in the report, the department's response thereto, and a reference to the supporting comments.

Recommendation #1

We recommend the department:

- A. Develop appropriate department-wide policies and procedures in a timely manner. 7

Agency Response: Concur. See page B-4.

- B. Ensure policies and procedures are communicated to and followed by employees. 7

Agency Response: Concur. See page B-4.

Recommendation #2

- We recommend the department ensure employees charge their time to the accounts benefitting from their activities. 8

Agency Response: Concur. See page B-5.

Recommendation #3

We recommend the department:

- A. Improve its subrecipient monitoring procedures to include all subrecipients receiving at least \$25,000 in federal assistance annually. 10

Agency Response: Concur. See page B-6.

- B. Clarify the subrecipient monitoring procedures in its Policy and Procedures Manual. 10

Agency Response: Concur. See page B-6.

Recommendation #4

- We recommend the department continue implementation of its drug-free workplace policy in compliance with federal regulations. 12

Agency Response: Concur. See page B-7.

Recommendation #5

- We recommend the department adopt policies and implement procedures to ensure security over computer data and information resources in accordance with state law. 14

Agency Response: Concur. See page B-7.

Summary of Recommendations

<u>Recommendation #6</u>	We recommend the department:	
	A. Amend its permit fee rules to correctly reflect the applicable statutory requirements.	16
	<u>Agency Response:</u> Do not concur. See page B-7.	
	B. If necessary, seek legislation to incorporate and clarify items from the Chapter 507 statement of intent into section 75-5-516, MCA.	16
	<u>Agency Response:</u> Concur. See page B-7.	
<u>Recommendation #7</u>	We recommend the department establish a formal administrative structure to strengthen its water permit fee process.	17
	<u>Agency Response:</u> Concur. See page B-8.	
<u>Recommendation #8</u>	We recommend the department implement random compliance inspections to verify permittee data and ensure fee calculations are accurate and complete.	18
	<u>Agency Response:</u> Concur. See page B-9.	
<u>Recommendation #9</u>	We recommend the department seek legislation regarding the Water Pollution Control Advisory Council to make the council's meeting requirements more flexible.	19
	<u>Agency Response:</u> Concur. See page B-9.	
<u>Recommendation #10</u>	We recommend the department seek legislation to appropriately revise state law regarding matching funds for local water pollution control facilities.	20
	<u>Agency Response:</u> Do not concur. See page B-10.	
<u>Recommendation #11</u>	We recommend the department record financial activity in accordance with state accounting laws and policies.	22
	<u>Agency Response:</u> Concur. See page B-10.	

Introduction

General

We performed a financial-compliance audit of the Department of Health and Environmental Sciences (department) for fiscal years 1992-93 and 1993-94. The objectives of the audit were to:

1. Determine if the department complied with applicable laws and regulations.
2. Make recommendations for improvement in the administration, management, and internal controls of the department.
3. Determine if the department's financial schedules present fairly the results of operations for the two fiscal years ended June 30, 1994.
4. Determine implementation status of prior audit recommendations.

We coordinated our financial-compliance audit work with performance audits of the Health Facility Licensure Program (93P-34), Air Quality Program (93P-35), and Enforcement of the Water Quality and the Public Water Supply Acts (94P-36).

In accordance with section 5-13-307, MCA, we analyzed and disclosed the cost, if significant, of implementing the recommendations contained in this report. Additional areas of concern deemed not to have a significant effect on the successful operations of the department are not specifically included in the report, but have been discussed with management.

Background

The Department of Health and Environmental Sciences was created to protect and promote the health of the people of Montana through implementation of public health programs and the enforcement of public health laws and regulations. The department is also responsible for ensuring that a safe and healthful environment exists in Montana through implementation of environmental protection programs and enforcement of environmental laws and regulations. The general powers and duties of the department are detailed in Title 50, MCA.

Introduction

In addition to the director's office, which included the legal and personnel functions, the department had the following four divisions during the audit period:

Centralized Services Division performed the general administrative and fiscal support functions of the department. The division included the Support Services, Vital Records and Statistics, Chemistry Laboratory, Public Health Laboratory, and Information Services Bureaus.

Environmental Sciences Division was responsible for ensuring people have a livable and wholesome environment. The division included the Air Quality, Occupational and Radiological Health, Solid and Hazardous Waste, and Water Quality Bureaus.

Health Services Division included the department's health planning functions and was primarily responsible for administering certificate of need laws and rules. The division included the Emergency Medical Services, Preventive Health Services, Family/Maternal and Child Health, and Food and Consumer Safety Bureaus.

Health Facilities Division was responsible for the regulatory oversight of health-related services and facilities. The division included the Certification and Licensure Bureaus.

During fiscal year 1993-94, the department was reorganized. The Environmental Sciences Division was split into the Air Quality, Environmental Remediation, Waste Management, and Water Quality Divisions. The Vital Records and Statistics Bureau was moved to the Health Services Division. The personnel function was moved to the Centralized Services Division.

The Board of Health and Environmental Sciences is attached to the department. The board consists of seven members appointed by the governor. The board advises the department on public health matters. The board also has the authority to establish rules and hold public hearings on health matters such as air quality, water quality, and solid waste management.

The Petroleum Tank Release Compensation Board is a statutory board, administratively attached to the department. The board was created by Chapter 528, Laws of 1989. The board consists of seven members appointed by the governor. The board is to

ensure the cleanup of petroleum products which leak from storage tanks, and to reimburse the owners or operators of eligible tanks for their expenses in cleaning up such leaks. The board also compensates persons who live on or own property near leaking tanks for any bodily injury or property damage they may sustain as a result of the leaks.

The 1993 Legislature established the Montana Health Care Authority effective in fiscal year 1993-94. The authority is allocated to the department for administrative purposes and is responsible for establishing a health care plan for the state of Montana.

The department works with county health departments throughout the state and contracts with other state agencies, counties, individuals, and private organizations to administer various health and environmental programs. These programs include Food and Consumer Safety, Air Quality, Junk Vehicle, Underground Storage Tank (UST), Public Water Grants, and Nutritional and Preventive Health Services, such as Montana's Initiative for the Abatement of Mortality in Infants (MIAMI), Immunization, Rabies, and Sexual Assault Services.

The department's full-time equivalent (FTE) employees have grown from 299 in fiscal year 1989-90 to an authorized level of 451 in fiscal year 1993-94. This is an increase of 152 FTE, or 50 percent, during the four year period. Authorized FTE increased by 64, or over 16 percent, between fiscal years 1992-93 and 1993-94. The department's expenditures increased from \$32.2 million for fiscal year 1989-90 to \$56.6 million for fiscal year 1993-94, a 75 percent increase. These increases resulted from new and expanded state and federal programs, including Natural Resource Damage Assessment; Public Water Supply; Nonpoint Source Pollution; Child Nutrition; Women, Infants, and Children; Nursing Home Reform; and the Montana Health Care Authority. Since fiscal year 1989-90, about two-thirds of the department's funding has been from federal financial assistance programs funded by the U.S. Department of Agriculture, U.S. Department of Health and Human Services, and the Environmental Protection Agency.

Prior Audit Recommendations

Prior Audit Recommendations

The prior audit report for the two fiscal years ended June 30, 1992 contained 12 recommendations. The following paragraphs discuss the implementation status of these recommendations.

Electronic Data Processing Recommendations

Six of the twelve prior recommendations resulted from our general and application controls review of the Women, Infants, and Children Program's computer system. The system maintains records of program participants, accounts for food vouchers, and provides program statistics. The system we reviewed last audit operates on the state's mainframe computer. The department contracted development of a new system which is designed to operate on personal computers independent of the state's mainframe computer. Conversion to the new system is not expected to be complete until December 1994, so we limited our work to following up on the prior recommendations.

The department implemented three of the prior electronic data processing recommendations. It partially implemented the two recommendations to develop a disaster recovery plan and establish procedures to document and reconcile application errors. The department plans to fully implement these recommendations when it converts to the new system. However, we continue to have concerns regarding the department's need for policies and procedures over computer security, as discussed on page 12 of this report.

Other Recommendations

Of the six other prior recommendations, three were implemented, two were partially implemented, and one was not implemented. The recommendation not implemented concerns the Water Pollution Control Advisory Council, as discussed on page 19 of this report. The recommendations partially implemented concern the department's system for monitoring subrecipient audit reports and the need to correct the account balances in the federal Public Health account. These issues are discussed on pages 8 and 22 of this report, respectively.

Findings and Recommendations

Policies and Procedures

The function of specific policies and procedures is to guide personnel in performing duties in a consistent, timely, and accurate manner. Establishing and implementing department-wide policies and procedures strengthens management's control over operations and helps to assure continuity of operations, controls, and compliance with state and federal laws and regulations as staffing changes occur. The department is responsible for complying with and enforcing state and federal public health and environmental laws and regulations. It received \$37.6 million in federal assistance during fiscal year 1993-94, (primarily from the U.S. Department of Agriculture, U.S. Department of Health and Human Services, and the Environmental Protection Agency) to fulfill these responsibilities.

As noted on page 3, the department's authorized FTE have increased significantly since fiscal year 1989-90. During fiscal year 1993-94, several department administrators retired and the department was reorganized with acting administrators named to the vacant or newly created administrative positions.

We found lack of formal policies and procedures and lack of staff awareness of existing policies and procedures caused inconsistencies in operations and impeded efficiency and effectiveness of department personnel. We found the department could improve its operations and compliance with state and federal requirements if it adopted, formalized, and/or revised policies and procedures. Specific policy areas noted for improvement include payroll reporting, subrecipient monitoring, drug-free workplace, and internal computer security, as discussed in the following report sections. We also noted instances indicating a need for more comprehensive policies and procedures related to contract management. Because this issue is addressed in a contract compliance report prepared by the department's internal auditor, we make no specific recommendation at this time.

The department's Policy and Procedures Manual is not readily available to all staff. The department distributes policies and

Findings and Recommendations

procedures to the director, deputy director, administrative officer, administrative secretary, Montana Health Care Authority, Petroleum Tank Release Compensation Board, legal unit, the Billings and Polson offices, and each division administrator and bureau chief. It is the responsibility of division administrators and bureau chiefs to inform their staff of new policies and procedures. Some request extra copies of new policies and procedures for distribution to staff.

The distribution of new policies and procedures is based on the department's current telephone list and informal communications with the employee responsible for distributing the policies. There is no formal list of employees who have the Policy and Procedures Manual, so there is no way to ensure 1) all employees who should have manuals actually have them, and 2) all employees who have manuals receive updates. The department's internal auditor found during his recent contract management audit "1) An exact inventory of the holders of the policy manuals is not current or available; 2). . . most employees were not aware of the manual's existence or where to find a copy of one; and 3) Manuals are not complete and in some cases contain outdated information."

It is difficult to determine what guidance staff have received. We observed a manual containing internal memoranda that were not officially issued as policies and procedures. These memoranda indicate staff receive guidance through processes less formal than issuance of policies and procedures. We also noted one bureau chief circulated his manual among staff with a request dated January 11, 1993, for staff to read the manual. The manual had been read by 13 of 19 staff as of August 2, 1994.

The department should emphasize to management and staff the importance of following policies and procedures. It should also implement a process, including training and supervisory review, to ensure policies and procedures are communicated to and followed by affected employees in a timely manner.

Findings and Recommendations

Recommendation #1

We recommend the department:

- A. Develop appropriate department-wide policies and procedures in a timely manner.
- B. Ensure policies and procedures are communicated to and followed by employees.

Payroll Reporting Procedures

The department expended over \$14 million in fiscal year 1993-94 on personal services. Its Policy and Procedures Manual contains a Payroll Reports policy which states "The payroll report . . . must accurately reflect the employee's work schedule for each two-week period." Federal regulations also require payroll reports to reflect the actual activity of each employee. We found instances where department personnel did not comply with these requirements.

Agricultural Chemical Groundwater Protection Account

During our performance audit of Water Quality Division, we noted the Agricultural Chemical Groundwater Protection (ACGP) account was charged a certain percentage of personal services regardless of the actual amount of time staff spent on projects related to the account. A division employee said he was charging the account to ensure all the funds were expended. It was his understanding that state money should be spent before federal money because unused state money reverts and unused federal money carries forward.

Division personnel summarize total hours spent on various activities on division activity reports. According to division activity reports for July to December 1993, division personnel spent 151 hours on ACGP activities. The division uses biweekly time sheets to charge personal services to various accounts. Based on biweekly time sheets for the same period, 250 hours were charged to the ACGP account. The 99 hour overcharge

Findings and Recommendations

should have been charged to the accounts benefitting from the actual activities of division staff.

After we discussed this issue with the department's internal auditor, he issued a memorandum to division administrators, bureau chiefs, and program managers summarizing the federal requirements regarding employee time reporting. The memorandum should have also referred to department policy.

Water Quality Division Payroll Adjustment

We reviewed an accounting document that moved \$27,600 of payroll charges from the accounts originally charged to the accounts that should have been charged. A Centralized Services Division employee said the corrections occurred after she noticed Water Quality Division payroll charges were very consistent between pay periods although staff activities varied. During a management meeting with Water Quality personnel, she told them charges should be based on where they spent their time and not on where they were budgeted. Subsequently, five Water Quality Division personnel indicated their activities were not accurately reflected on their time sheets. These five employees requested corrections for 1,193 hours of time charged incorrectly from July 1992 to March 1993.

Recommendation #2

We recommend the department ensure employees charge their time to the accounts benefitting from their activities.

Subrecipient Monitoring Procedures

The federal Single Audit Act of 1984 and Office of Management and Budget (OMB) Circular A-128 require the department to determine whether those entities annually receiving subgrants of at least \$25,000 in federal financial assistance during a fiscal year comply with applicable federal requirements. To ensure subrecipients are in compliance, the department should obtain and review subrecipient audit reports and determine if the reports comply with the Single Audit Act of 1984 and OMB

Findings and Recommendations

Circular A-128. The department is also responsible for resolving any findings and questioned costs related to the funds it subgrants. Failure to adequately monitor subrecipient contracts results in a lack of assurance that such contracts are properly administered. Noncompliance could result in the loss of future federal funding.

We noted concerns with the department's subrecipient monitoring procedures during the last two audits. During this audit, we found the department has made progress in complying with subrecipient monitoring requirements, but could further improve its procedures.

We distributed questionnaires to program personnel responsible for managing 26 of the department's nonmajor (less than \$3,000,000) federal financial assistance programs. In their responses to the questionnaires, seven program managers indicated fourteen of the programs have subrecipients which are subject to the federal monitoring requirements. These subrecipients are primarily counties, cities, water and sewer districts, universities, not-for-profit organizations, and for-profit entities.

Department policy states the primary responsibility for subrecipient monitoring rests with the individual program managers and their staff. The program manager responses on the questionnaires indicate they are not familiar with and do not comply with this policy. Four program managers thought the department's internal auditor and/or contract requirements ensure the department obtains the required audits and resolves any audit findings. Two managers indicated audits are performed or reviewed by the Department of Commerce's Local Government Services Bureau (LGSB). Only one of the managers acknowledged his responsibility to resolve audit findings.

The department's subrecipient monitoring policy also states the Support Services Bureau (SSB) "is responsible for the review of all audit reports from sub-recipients as required by the Federal Single Audit Act of 1984 and related Office of Management and Budget Circulars. . . . The SSB will monitor counties to ensure those audit reports are received in a timely manner. The

Findings and Recommendations

contract liaisons are responsible to ensure that non-profit sub-recipients' audit reports are received in a timely manner." The policy does not specifically address local governments, other than counties, or for-profit entities.

To comply with this policy, the department entered into an agreement in May 1993 with the LGSB. Through this agreement, the LGSB summarized for the department the findings and questioned costs identified in county audit reports. In March 1994, we determined the department had no reliable procedure to ensure audit reports were obtained and reviewed for subrecipients that were not county governments. As a result, the department was not complying with federal subrecipient monitoring requirements. As we recommended, the department revised its agreement with the LGSB to include those other types of local governments with which the department has current contracts, such as cities and water and sewer districts.

All contracts for federal assistance subawards are included in the department's contract database. According to department personnel, minor changes to the database would allow the department to obtain listings of all subrecipients requiring audits. This would allow the department to properly identify those subrecipients for which the LGSB provides no assurance. The department should improve its subrecipient monitoring procedures and clarify those procedures in its Policy and Procedures Manual to ensure compliance with federal subrecipient monitoring requirements.

Recommendation #3

We recommend the department:

- A. Improve its subrecipient monitoring procedures to include all subrecipients receiving at least \$25,000 in federal assistance annually.**
- B. Clarify the subrecipient monitoring procedures in its Policy and Procedures Manual.**

Findings and Recommendations

Drug-Free Workplace Policy

In accordance with federal requirements, all grantees receiving federal financial assistance must certify that they will provide a drug-free workplace. To make this certification, the grantee must:

- (a) Publish a policy notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition.
- (b) Establish an ongoing drug-free awareness program for employees.
- (c) Require each employee working on a grant be given a copy of the policy in (a) above.
- (d) Notify the employee in the policy in (a) above that, as a condition of employment, the employee must comply with the policy and notify the grantee employer in writing of any criminal drug statute conviction for a violation occurring in the workplace within five working days after such conviction.

When we asked for a copy of the department's current drug-free workplace policy during this audit, we were given a policy signed by the department's director on April 4, 1989. This policy did not comply with requirements (c) and (d) above. During the prior audit, the department gave us a drug-free workplace policy signed by the director on January 7, 1991 which met federal requirements. When we asked for a copy of this policy, department personnel could not locate it. They did, however, find a copy of the memorandum distributed with the 1989 policy that required anyone working under a federal grant to receive, sign, and date a copy of the policy statement and the memorandum. Neither the 1989 nor the 1991 policy was in the department's Policy and Procedures Manual. During our audit period, the department did not have orientation procedures to ensure new employees read and sign a drug-free workplace policy statement. As a result, employees hired after April 1989, working under federal grants, may not have read or signed such a policy.

Findings and Recommendations

After discussing this issue with department personnel, the department revised its drug-free workplace policy to comply with federal requirements. The revised policy requires all current employees read the policy and sign a certification that they have done so. It also requires new employees read the policy and sign the certification statement during orientation procedures. The policy was prepared for distribution to holders of the department's Policy and Procedures Manual.

Recommendation #4

We recommend the department continue implementation of its drug-free workplace policy in compliance with federal regulations.

Computer Security

Policies and Procedures

In our prior audit, we recommended the department implement policies and procedures to ensure security over computer data and information resources in accordance with state law. Section 2-15-114, MCA, specifies each department head is responsible for an adequate level of security over data and information technology resources within the department and implementing appropriate cost-effective safeguards to reduce, eliminate, or recover from identified threats to data. The statute also requires department officials ensure internal evaluations of the security program for data and information technology resources are conducted.

Department personnel drafted internal security policies and procedures in November 1992. In January 1994, Information Services Bureau personnel indicated internal security policies and procedures were with the director for review and comment. In August 1994, bureau personnel stated they had received the director's comments and were revising the draft policies and procedures.

Findings and Recommendations

Employee Access

One aspect of internal security is determining who should have access to which programs and data. Another aspect is regularly reviewing access rights to determine if they are appropriate, or if they should be changed or suspended.

We performed testing to determine if the Information Services Bureau suspended computer access in a timely manner for people who terminated employment with the department. We found a personnel officer's access was suspended four months after her retirement date. As of August 31, 1994, the bureau had not suspended the logon IDs of five of thirteen people who terminated employment with the department between May 27 and July 22, 1994. Bureau personnel indicated they would have identified and suspended these IDs on September 2, 1994, through their normal procedures.

While reviewing data related to these five logon IDs, bureau personnel noted none of the IDs had been used to access the department's computer system. By allowing access rights to employees who do not need access to perform their job duties and by not suspending logon IDs upon employee termination, the department increases its risk that unauthorized persons will access sensitive information or make inappropriate changes to the programs and data to which they have access.

During both the current and prior audits, the department security officer indicated that program managers did not notify him when staff terminated employment with the department. In the prior audit, we recommended the department develop policies and procedures for notifying the security officer and suspending logon IDs upon personnel termination. Because policies and procedures had not been finalized, the bureau developed a backup system to ensure the security officer suspended logon IDs of all employees who terminated. Under the backup system, the security officer is supposed to review the personnel data base at the end of each two week pay period for modifications relating to the previous pay period. Using this process, up to four weeks could elapse before the bureau suspended logon IDs of terminated employees. The security officer could not explain why three to four months elapsed before logon IDs were suspended.

Findings and Recommendations

The department needs to implement internal computer security policies and procedures in order to clarify the responsibilities of department personnel regarding employee access rights. Also, the department should consider if there are more efficient and effective procedures than those currently used to ensure logon IDs are suspended in a timely manner.

Recommendation #5

We recommend the department adopt policies and implement procedures to ensure security over computer data and information resources in accordance with state law.

Water Quality Permit Fee and State Compliance Issues

During our performance audit of the Water Quality Division (94P-36) and this financial-compliance audit, we noted several issues related to Water Quality Division permit fees and compliance with statutes contained in Title 75, chapter 5, MCA. These issues are discussed in the following five report sections.

Rules for Assessing Water Permit Fees

During the 1993 regular legislative session, the legislature enacted Chapter 507 (section 75-5-516, MCA), authorizing the Board of Health and Environmental Sciences to develop rules prescribing fees the department should assess for water permits. The law sets the minimum and maximum application fee limits at \$250 and \$5,000 per discharge point and the annual fee limits at \$250 and \$3,000 per million gallons discharged per day. The law specifically states the permit fees are to be commensurate with costs within the upper and lower statutory limits. The only exception in the law to the established dollar parameters is for multiple stormwater discharge points. The department and the Board of Health and Environmental Sciences have since developed rules to assess these fees (ARMS 16.20.1604). These rules offer a percentage reduction in fees for discharges below a facility's effluent limitations. We noted the department's rules vary from statutory requirements in two respects.

Findings and Recommendations

First, unless the department can document a correlating reduction in its related costs, the fee reduction violates the requirement that fees cover costs. We were unable to document any projected savings to justify this reduction. Second, fees are lower than dollar limits set in the law. The rules set application fees for general permits at \$200 and authorizations to degrade for subdivision discharges at \$120 per lot.

The department used the statement of intent attached to Chapter 507 for guidance in adopting its rules. The statement of intent does provide for fees less than the statutory minimum and a reduction in fees for discharges below permit limits. However, this statement is in direct conflict with the substantive provisions of section 75-5-516, MCA.

The effect of a statement of intent was addressed in 39 Opinions of the Attorney General, #68, which stated in part:

" . . . The role of the statement of intent is not substantive. In other words, the statement of intent is not law, but merely serves as a guide to executive branch agencies regarding the implementation of administrative rules or regulations.

. . . There is nothing in the statement of intent that would alter the standard rule for determining legislative intent based upon the plain meaning of the words used in the statute."

Applying this rationale, the statement of the intent of Chapter 507 cannot be used to modify the specific provisions of the law, and the current permit fee rules are in conflict with the specific provisions of the law.

During the audit, department officials agreed with this conclusion and stated they plan to submit a proposal to the 1995 Legislature to incorporate and clarify items from Chapter 507's statement of intent into section 75-5-516, MCA. Until that time, department officials said current fee structures will remain in place.

Findings and Recommendations

Recommendation #6

We recommend the department:

- A. Amend its permit fee rules to correctly reflect the applicable statutory requirements.
- B. If necessary, seek legislation to incorporate and clarify items from the Chapter 507 statement of intent into section 75-5-516, MCA.

Water Quality Permit Fee Procedures

The division has not developed a formal system for administering the fee process. There are no established procedures for staff to follow. Although an automated system for calculating fees has been discussed by department staff, permit staff are manually calculating fees based on file reviews. No supervisory review is completed to ensure consistency and accuracy of calculations. With five individuals manually calculating the annual fee for hundreds of permittees, there is a possibility of human error or inconsistency.

Although the rules adopted for the permit fees base the fees on average discharge flow rates, division personnel used alternative data which lowered the assessed fees by as much as \$44,472 for some permittees. If permittees had not filed discharge flow information recently, division personnel used information from previous years or developed alternative calculation methods. We noted some permittees are only required to report their average monthly discharge flows quarterly. The division incorrectly averaged this information as if the permittee had reported each month of the 12 month period. This lowered the permit fee for those permittees by as much as 66 percent. We also noted instances where permittees were incorrectly classified, which resulted in incorrect fee amounts.

The division needs an established administrative structure for assessing fees. Lack of a formal structure affects the division's

Findings and Recommendations

ability to track the level of funding available for permit programs. For example, no formal procedures to track the portion of application fees that should be reimbursed in case of permit denial could result in noncompliance with statutory requirements and in a misstatement of revenues.

The department should strengthen its water permit fee process by establishing a formal administrative structure. This structure should:

- (a) include a management information system to track and document fee information;
- (b) establish formal procedures for staff; and,
- (c) provide for supervisory review to ensure procedures are consistently followed and fee calculations are accurate.

Department officials have indicated the department is in the process of developing a computerized information management system to track and document fee information.

Recommendation #7

We recommend the department establish a formal administrative structure to strengthen its water permit fee process.

Accuracy of Water Quality Permit Fee Assessments

The Water Quality Division assesses permit fees based on data self-reported by the permittees. Relying only upon data submitted by the permittee could impact the accuracy of the fee assessed and, ultimately, the funds available to manage the program. Of the 400 current surface water permits, division staff currently inspect the same 45 major permittees each year to verify the self-monitoring data that is submitted. Although this is done to meet the minimum federal requirements for program monitoring, it does not provide assurance that the other 355 permittees are in compliance with program requirements. Other

Findings and Recommendations

permittees are visited only if a complaint is received. This also raises questions as to whether the department is adequately meeting its responsibilities for ensuring public safety and environmental protection.

A review of fiscal year 1992-93 permittee data shows reports with the same amount of discharge month after month for the entire year for some permittees. Others reported data which varied only slightly over long periods of time. Some permittees reported no discharge for several months throughout the year. The majority of permittees report varying discharge data every month. When questioned about some of the permittee data, division personnel indicated some of it may be questionable. Currently, there are no established procedures to verify permittee data prior to the fee calculations. The only way to verify permittee data is to perform periodic inspections. As noted earlier, fee assessments can directly impact the funding levels of division programs.

We believe the department should take steps to ensure information used to assess these fees is reliable and accurate. Section 75-5-516(1)(e), MCA, provides for the department's fee structure to cover the costs of "conducting compliance inspections and monitoring effluent and ambient water quality." The department has hired two additional FTE in the permit program. Department officials indicated they plan to increase compliance monitoring for more facilities as personnel become trained and permit backlog is reduced. The department could use these resources to establish a random inspection schedule which ensures all permittees are subject to inspection.

Recommendation #8

We recommend the department implement random compliance inspections to verify permittee data and ensure fee calculations are accurate and complete.

Findings and Recommendations

Water Pollution Control Advisory Council

The Water Pollution Control Advisory Council was established by section 2-15-2107, MCA, to act in an advisory capacity to the department on matters relating to water pollution. Section 75-5-221, MCA, requires the council to hold at least two regular meetings each calendar year.

We noted in our prior audit report that the council had not met in the past three years. Department personnel estimate the council has not met for about six years. The department mails information, such as new laws and rules, to council members for review and comment. Some department personnel believe the council could be disbanded because the public has ample opportunity to respond to water pollution issues through the Board of Health and Environmental Sciences. Other department personnel believe the council fulfills an important advisory function without having formal meetings. In their response to the prior audit report, department officials indicated they planned to have a council meeting by June 30, 1994. According to department officials this goal was not met because the employee working with the council retired in January 1994 and the position remained vacant through June 30.

If the department believes the advisory council is not needed or fulfills the department's needs without formal meetings, complying with the statute requiring two council meetings each calendar year may result in the inefficient use of department resources and waste the time of appointed council members. Department officials should resolve this statutory noncompliance issue by seeking appropriate changes to state law.

Recommendation #9

We recommend the department seek legislation regarding the Water Pollution Control Advisory Council to make the council's meeting requirements more flexible.

Findings and Recommendations

Local Water Pollution Control Facilities' Matching Funds

Section 75-5-501, MCA, states the Board of Health and Environmental Sciences shall adopt rules and establish standards for the use of matching funds by local governments in the planning and construction of local water pollution control facilities. The board has not adopted rules or established standards for this purpose because, according to Water Quality Division personnel, matching funds were never needed to secure funding for such construction grants. The department should evaluate whether this law should be repealed or amended to require the board to adopt rules and establish standards when such matching funds are needed, then seek legislation to make the appropriate change.

Recommendation #10

We recommend the department seek legislation to appropriately revise state law regarding matching funds for local water pollution control facilities.

Accounting Issues

Section 17-1-102(5), MCA, requires state agencies to record all transactions before the accounts are closed at the end of the fiscal year to present the receipt, use, and disposition of money and property for which the agency is accountable in accordance with generally accepted accounting principles. The Department of Administration establishes state accounting policy, as outlined in the Montana Operations Manual, to facilitate compliance with this state law. Complying with these requirements improves the quality, consistency, and comparability of financial information within and between state agencies. It also ensures that accounts are properly, accurately, and consistently measured within, and at the end of, each fiscal year.

The following paragraphs discuss areas where the department could improve compliance with state accounting policy and law. Department personnel indicated most of the errors were an oversight or occurred due to lack of time.

Findings and Recommendations

Incomplete Transfer of Natural Resource Damage Program

The Natural Resource Damage (NRD) Program was established to represent the state of Montana in litigation involving damages from the release of hazardous substances in the Upper Clark Fork River Basin. In Executive Order No. 10-94 dated June 17, 1994, the governor transferred the NRD Program from the department to the Department of Justice. The order stated the "assets and liabilities and expenses for the current fiscal year of the NRD Program will be transferred to reflect this reassignment, to apply retroactively to July 1, 1993." The Department of Health and Environmental Sciences did not complete the transfer until September 1994. As a result, the department's accounting records improperly include a long-term liability of \$5,937,488, prior year expenditure adjustments of \$(25,421), cash transfers in of \$(1,214,663), and a June 30, 1994 fund balance of \$(5,937,488) in the Special Revenue Fund. All of these amounts should have been zero.

Cash Cutoff Procedures

During the period after June 30, but prior to closing the accounting records, state accounting policy requires agencies to use alternative procedures to record cash transactions. Under this policy agencies can only use the cash control account when correcting errors within the same accounting entity. At the end of fiscal years 1992-93 and 1993-94, the department did not use the alternative procedures. As a result, the accounts "Due From FYE Cash Cutoff Adjustment" and "Due To FYE Cash Cutoff Adjustment" were each overstated by \$267,325 in the General Fund at the end of fiscal year 1992-93 and by \$596,688 in the Special Revenue Fund at the end of fiscal year 1993-94.

Improper Revenue Cutoff

We noted the following instances of improper revenue cutoff at June 30, 1993 and 1994.

1. The department did not accrue a receivable and related revenue of \$28,068 for vital statistics records it provided to the Center for Disease Control (CDC) prior to June 30, 1994. Department personnel said they record a receivable when they bill CDC, but they can not bill CDC until CDC approves the information the department provided. Since the department has a contract commitment from CDC to

Findings and Recommendations

pay for the information, it should have recognized a receivable and revenue under state accounting policy.

2. Department personnel did not accrue an estimated \$20,000 in solid waste management fees due from landfills prior to June 30, 1994. They indicated it is department practice to record revenue in the year received. State policy requires such revenue to be recorded when due.
3. The ARCO account had a June 30, 1994 fund balance of \$25,311. Since funds not used by the department are due back to ARCO, the department should have deferred recognition of \$25,311 of cost recovery revenue in the account.
4. The Wastewater Treatment Grant account had fund balances of \$445 and \$1,779 at June 30, 1993 and 1994, respectively. Since the federal government reimburses the account for legitimate expenditures, these fund balances should have been zero. The fund balances resulted from an overstatement of revenue and receivables from the federal government.

Unreconciled Federal Public Health Account

In the prior audit, we recommended the department analyze and correct the balances in the federal Public Health account. The department has partially reconciled the account, which had assets of \$19,372 at June 30, 1994. Department personnel believe most of these assets resulted from activity related to an inter-agency agreement with the Department of State Lands (DSL). State policy defines a federal Special Revenue Fund as a fund consisting of money deposited from a federal source that is used for the operation of state government. The reimbursement under the DSL agreement is not federal money and should not be recorded in a federal account.

Recommendation #11

We recommend the department record financial activity in accordance with state accounting laws and policies.

Independent Auditor's Report & Agency Financial Schedules

Summary of Independent Auditor's Report

Summary of Independent Auditor's Report

The auditor's opinion issued on the financial schedules contained in this report is intended to convey to the reader the degree of reliance which can be placed on the amounts presented. The financial schedules are prepared from SBAS without adjustments for errors noted during the audit. This is done to allow the reader to determine how reliable the information recorded in the accounting records is.

The qualified opinion on the schedules means the reader should use caution when using the information presented. The department did not complete the transfer of the Natural Resource Damage Program to the Department of Justice until September 1994. As a result, the June 30, 1994 Fund Balance in the Special Revenue Fund is understated by \$5.9 million and other accounts in the Special Revenue Fund are not presented in conformity with state accounting policy.



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LEGAL COUNSEL:
JOHN W. NORTHEY

INDEPENDENT AUDITOR'S REPORT

The Legislative Audit Committee
of the Montana State Legislature:

We have audited the accompanying financial schedules of the Department of Health and Environmental Sciences for each of the two fiscal years ended June 30, 1993 and 1994, as shown on pages A-5 through A-13. The information contained in these schedules is the responsibility of the department's management. Our responsibility is to express an opinion on these financial schedules based on our audit.

We conducted our audit in accordance with generally accepted auditing standards. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial schedules are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial schedules. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial schedule presentation. We believe that our audit provides a reasonable basis for our opinion.

As described in note 1, these financial schedules are presented on a comprehensive basis of accounting other than generally accepted accounting principles. The schedules are not intended to be a complete presentation and disclosure of the department's assets, liabilities, and cash flows.

The department did not transfer all the Natural Resource Damage Program financial activity to the Department of Justice effective July 1, 1993, as required by Executive Order No. 10-94. As a result, in the Special Revenue Fund for fiscal year 1993-94, prior year expenditure adjustments are overstated by \$25,421, cash transfers in are understated by \$1,214,663, Direct Entries to Fund Balance are understated by \$4,748,246, and the June 30, 1994 Fund Balance is understated by \$5,937,488.

In our opinion, except for the effects of the matter discussed in paragraph four, the financial schedules referred to in the first paragraph present fairly, in all material respects, the results of operations and changes in fund balances of the Department of Health and Environmental Sciences for the two fiscal years ended June 30, 1994, in conformity with the basis of accounting described in note 1.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "James Gillett".

James Gillett, CPA
Deputy Legislative Auditor

September 14, 1994

DEPARTMENT OF HEALTH & ENVIRONMENTAL SCIENCES
SCHEDULE OF CHANGES IN FUND BALANCES
FOR THE TWO FISCAL YEARS ENDED JUNE 30, 1994

	<u>General Fund</u>	<u>Special Revenue Funds</u>	<u>Internal Service Funds</u>
FUND BALANCE: July 1, 1992	\$ <u>0</u> ¹	\$ <u>9,506,537</u>	\$ <u>749,766</u>
ADDITIONS			
<u>Fiscal Year 1992-93</u>			
Budgeted Revenue & Transfers In ⁴	684,684	41,983,032	2,138,000
Nonbudgeted Revenue & Transfers In	342,757	528,314	
Prior Year Expenditure Adjustments	25,295	347,408	(296)
Support From State of Montana	2,667,037		
Cash Transfers In ²		1,389,368	
Prior Year Revenue		61,541	
Direct Entries To Fund Balance		52,908	
 <u>Fiscal Year 1993-94</u>			
Budgeted Revenue & Transfers In ⁴	215,545	46,207,858	1,217,453
Nonbudgeted Revenue & Transfers In	507,993	17,952	13
Prior Year Expenditure Adjustments	178,297	159,370	5,340
Support From State of Montana	2,899,799		
Cash Transfers In ²		4,570,751	
Total Additions	<u>7,521,407</u>	<u>95,318,502</u>	<u>3,360,510</u>
REDUCTIONS			
<u>Fiscal Year 1992-93</u>			
Budgeted Expenditures	3,718,945	45,151,430	1,775,382
Prior Year Revenue Adjustments	828	172,491	14,966
Nonbudgeted Expenditures & Transfers Out ³		4,235,265	20,598
Prior Year Expenditures		(184,366)	3,502
 <u>Fiscal Year 1993-94</u>			
Budgeted Expenditures	3,799,027	47,202,091	1,920,962
Prior Year Revenue Adjustments	2,607	80,633	(43)
Nonbudgeted Expenditures & Transfers Out ³		3,760,909	(36,320)
Direct Entries to Fund Balance			24,943
Total Reductions	<u>7,521,407</u>	<u>100,418,453</u>	<u>3,723,990</u>
FUND BALANCE: June 30, 1994	\$ <u>0</u> ¹	\$ <u>4,406,586</u>	\$ <u>386,286</u>

¹ See note 4 on page A-11.

² See note 5 on page A-11.

³ See note 6 on page A-12.

⁴ See note 7 on page A-12.

This schedule is prepared from the Statewide Budgeting and Accounting System. Additional information is provided in the notes to the financial schedules beginning on page A-9.

Fiscal Year 15

GENERAL FUND

Estimated Rev
Actual Reven
Collections (C
(Under) Est

SPECIAL REVEN

Estimated Rev
Actual Reven
Collections (C
(Under) Est

INTERNAL SERVI

Estimated Rev
Actual Reven
Collections (C
(Under) Est

Fiscal Year 15

GENERAL FUND

Estimated Rev
Actual Reven
Collections (C
(Under) Est

SPECIAL REVEN

Estimated Rev
Actual Reven
Collections (C
(Under) Est

INTERNAL SERVI

Estimated Rev
Actual Reven
Collections (C
(Under) Est

¹See note 7 or

This schedule

DEPARTMENT OF HEALTH & ENVIRONMENTAL SCIENCES
SCHEDULE OF BUDGETED REVENUE & TRANSFERS IN - ESTIMATE / CTUAL
FOR THE TWO FISCAL YEARS ENDED JUNE 30, 1994

	<u>Licenses and Permits</u>	<u>Charges For Services</u>	<u>Investment Earnings</u>	<u>Fines & Forfeits</u>	<u>Sale of Documents, Merchandise</u>	<u>Contributions and Premiums</u>	<u>Contracts, Grants, Gifts</u>	<u>Other Financing Sources</u>	<u>Federal</u>	<u>Federal Indirect Cost Recoveries</u>	<u>Total</u>
<u>Fiscal Year 1993-94</u>											
GENERAL FUND											
Estimated Revenue	\$ 201,000	\$ 80,000									\$ 281,000
Actual Revenue	<u>91,627¹</u>	<u>123,218</u>									<u>215,345</u>
Collections Over (Under) Estimate	\$ <u>(109,373)</u>	\$ <u>43,218</u>									\$ <u>(65,455)</u>
SPECIAL REVENUE FUNDS											
Estimated Revenue	\$ 6,968,148	\$ 5,259,516	\$ 360,500	\$ 20,000	\$ 75,395		\$ 6,095	\$ 457,352	\$ 44,097,103		\$ 57,604,109
Actual Revenue	<u>5,519,878¹</u>	<u>2,499,882</u>	<u>192,417</u>	<u>18,000</u>	<u>27,589</u>		<u>8,921</u>	<u>267,559</u>	<u>37,593,612</u>		<u>46,207,858</u>
Collections Over (Under) Estimate	\$ <u>(1,448,270)</u>	\$ <u>(2,759,634)</u>	\$ <u>(168,083)</u>	\$ <u>(2,000)</u>	\$ <u>(47,806)</u>		\$ <u>(7,174)</u>	\$ <u>(189,793)</u>	\$ <u>(6,503,491)</u>		\$ <u>(11,396,251)</u>
INTERNAL SERVICE FUNDS											
Estimated Revenue										\$ 2,420,659	\$ 2,420,659
Actual Revenue										<u>1,217,453¹</u>	<u>1,217,453</u>
Collections Over (Under) Estimate										\$ <u>(1,203,206)</u>	\$ <u>(1,203,206)</u>
<u>Fiscal Year 1992-93</u>											
GENERAL FUND											
Estimated Revenue	\$ 181,000	\$ 50,000									\$ 231,000
Actual Revenue	<u>523,233¹</u>	<u>161,451</u>									<u>684,684</u>
Collections Over (Under) Estimate	\$ <u>342,233</u>	\$ <u>111,451</u>									\$ <u>453,684</u>
SPECIAL REVENUE FUNDS											
Estimated Revenue	\$ 4,031,719	\$ 7,509,480	\$ 195,500	\$ 20,000	\$ 69,074	\$ 175,000	\$ 1,52,132	\$ 144,406	\$ 43,573,890		\$ 56,781,201
Actual Revenue	<u>3,888,380¹</u>	<u>2,504,335</u>	<u>293,066</u>	<u>20,000</u>	<u>38,994</u>	<u>149,035¹</u>	<u>18,691</u>	<u>250,804</u>	<u>34,679,727</u>		<u>41,983,032</u>
Collections Over (Under) Estimate	\$ <u>(143,339)</u>	\$ <u>(5,005,145)</u>	\$ <u>97,566</u>	\$ <u>0</u>	\$ <u>(30,080)</u>	\$ <u>(25,965)</u>	\$ <u>13,441</u>	\$ <u>106,398</u>	\$ <u>(8,894,163)</u>		\$ <u>(14,798,162)</u>
INTERNAL SERVICE FUNDS											
Estimated Revenue		\$ 0 ¹								\$ 1,224,575	\$ 1,224,575
Actual Revenue		<u>155,580¹</u>								<u>1,982,420¹</u>	<u>2,138,000</u>
Collections Over (Under) Estimate		\$ <u>155,580</u>								\$ <u>757,845</u>	\$ <u>913,425</u>

¹See note 7 on page A-12.

This schedule is prepared from the Statewide Budgeting and Accounting System. Additional information is provided in the notes to the financial schedules beginning on page A-9.

PERSONAL SERVICES

Salaries
Other Compensation
Employee Benefits
Total

OPERATING EXPENSES

Other Services
Supplies & Materials
Communications
Travel
Rent
Utilities
Repair & Maintenance
Other Expenses
Total

EQUIPMENT AND INTANGIBLE ASSETS

Equipment
Intangible Assets
Total

GRANTS

From State Sources
From Federal Sources
From Other Sources
Total

BENEFITS & CLAIMS

From State Sources
From Federal Sources
Total

TOTAL PROGRAM EXPENDITURES

GENERAL FUND

Budgeted
Actual
Unspent Budget Authority

SPECIAL REVENUE FUNDS

Budgeted
Actual
Unspent Budget Authority

INTERNAL SERVICE FUNDS

Budgeted
Actual
Unspent Budget Authority

This schedule is prepared

DEPARTMENT OF HEALTH & ENVIRONMENTAL SCIENCES
SCHEDULE OF BUDGETED PROGRAM EXPENDITURES BY OBJECT & FUND - F ET & ACTUAL
FOR THE FISCAL YEAR ENDED JUNE 30, 1994

	Director's Office	Central Services	Air Quality Division	Environmental Remediation Division	Water Quality Division	Health Services Division	Family/MCH Bureau	Pr ntive lth eau	Health Facilities Division	Health Care Authority	Petro Tank Release Comp Board	Waste Management Division	Total
PERSONAL SERVICES													
Salaries	\$337,973	\$1,368,058	\$1,160,436	\$ 853,216	\$2,025,096	\$ 986,666	\$ 824,486	\$ 1,817	\$1,283,406	\$108,103	\$ 484,880	\$1,132,978	\$11,226,115
Other Compensation	3,400				50					15,900			19,350
Employee Benefits	74,337	375,341	289,756	209,565	533,747	265,646	221,704	1,224	341,749	23,925	124,017	280,732	2,907,743
Total	<u>415,710</u>	<u>1,743,399</u>	<u>1,450,192</u>	<u>1,062,781</u>	<u>2,558,893</u>	<u>1,252,312</u>	<u>1,046,190</u>	<u>1,041</u>	<u>1,625,155</u>	<u>147,928</u>	<u>608,897</u>	<u>1,413,710</u>	<u>16,153,208</u>
OPERATING EXPENSES													
Other Services	51,428	296,837	191,258	1,610,044	1,682,774	665,812	3,516,190	1,379	27,320	216,613	115,464	194,728	9,598,847
Supplies & Materials	16,878	375,402	121,950	45,821	123,873	34,072	150,713	1,531	22,928	31,286	45,706	56,835	1,200,995
Communications	7,227	76,525	50,611	29,377	101,380	87,009	52,363	1,233	39,976	23,620	25,867	64,723	622,911
Travel	9,614	2,574	57,301	44,665	135,278	107,503	169,868	1,282	151,168	72,928	35,277	90,419	66,159
Rent	15,377	89,049	64,971	59,528	76,213	48,601	34,098	1,295	67,391	16,396	34,924	74,504	609,347
Utilities		12,181	3,174	1,043		427			2,682		3,635	8,603	31,745
Repair & Maintenance	1,876	69,096	12,137	5,396	8,575	8,018	6,814	1,032	5,502	1,757	1,935	8,010	135,148
Other Expenses	11,732	94,273	185,340	131,129	317,082	140,004	122,660	1,589	165,728	19,895	77,600	181,795	1,539,827
Total	<u>114,132</u>	<u>1,015,739</u>	<u>686,742</u>	<u>1,927,003</u>	<u>2,445,175</u>	<u>1,091,446</u>	<u>4,052,706</u>	<u>1,341</u>	<u>482,695</u>	<u>382,492</u>	<u>340,408</u>	<u>655,357</u>	<u>14,669,239</u>
EQUIPMENT AND INTANGIBLE ASSETS													
Equipment	2,852	92,093	126,491	5,983	61,832	7,082	101,665	1,577	34,930	19,413	22,358	9,953	492,229
Intangible Assets		21,293	250		1,220		20,608			3,356			46,727
Total	<u>2,852</u>	<u>113,386</u>	<u>126,741</u>	<u>5,983</u>	<u>63,052</u>	<u>7,082</u>	<u>122,273</u>	<u>1,577</u>	<u>34,930</u>	<u>22,769</u>	<u>22,358</u>	<u>9,953</u>	<u>538,956</u>
GRANTS													
From State Sources												44,198	44,198
From Federal Sources			229,110		184,867		11,300,335	1,759					11,731,071
From Other Sources					150,395	393,352							1,391,296
Total			<u>229,110</u>		<u>335,262</u>	<u>393,352</u>	<u>11,300,335</u>	<u>1,759</u>					<u>13,166,565</u>
BENEFITS & CLAIMS													
From State Sources											3,480,162		3,480,162
From Federal Sources							6,913,950						6,913,950
Total							<u>6,913,950</u>				<u>3,480,162</u>		<u>10,394,112</u>
TOTAL PROGRAM EXPENDITURES	\$532,694	\$2,872,524	\$2,492,785	\$2,995,767	\$5,402,382	\$2,744,192	\$23,435,454	\$2,718	\$2,142,780	\$553,192	\$4,451,825	\$2,970,767	\$52,922,080
GENERAL FUND													
Budgeted	\$108,686		\$ 363,304			\$1,391,752	\$ 1,470,504	\$ 1,890	\$ 514,247	\$700,000		\$ 144,043	\$ 4,834,426
Actual	20,469		233,014			1,334,780	922,087	1,061	443,979	553,192		122,934	3,799,027
Unspent Budget Authority	<u>\$ 15,706</u>		<u>\$ 130,290</u>			<u>\$ 56,972</u>	<u>\$ 548,417</u>	<u>\$ 829</u>	<u>\$ 70,268</u>	<u>\$146,808</u>		<u>\$ 21,109</u>	<u>\$ 1,035,399</u>
SPECIAL REVENUE FUNDS													
Budgeted	\$220,000	\$2,164,372	\$3,160,351	\$6,939,011	\$8,499,628	\$1,809,055	\$24,104,856	\$3,1789	\$2,356,022		\$6,323,743	\$3,519,711	\$62,285,538
Actual	20,469	1,512,255	2,118,323	2,995,767	5,402,382	1,409,412	22,513,367	2,657	1,698,801		4,451,825	2,847,835	67,202,021
Unspent Budget Authority	<u>\$199,531</u>	<u>\$ 652,117</u>	<u>\$1,042,028</u>	<u>\$3,943,244</u>	<u>\$3,097,246</u>	<u>\$ 399,643</u>	<u>\$1,591,489</u>	<u>\$ 1,132</u>	<u>\$ 657,221</u>		<u>\$1,871,918</u>	<u>\$ 671,878</u>	<u>\$15,083,447</u>
INTERNAL SERVICE FUNDS													
Budgeted	\$491,370	\$1,769,608	\$ 156,176										\$ 2,417,154
Actual	419,245	1,360,269	141,448										1,920,962
Unspent Budget Authority	<u>\$ 72,125</u>	<u>\$ 409,339</u>	<u>\$ 14,728</u>										<u>\$ 496,192</u>

This schedule is prepared from the Statewide Budgeting and Accounting System. Additional information is provided in the notes to the financial schedules beginning on page A-9.

PERSONAL SERVICES

Salaries
Other Compensation
Employee Benefits
Total

OPERATING EXPENSES

Other Services
Supplies & Materials
Communications
Travel
Rent
Utilities
Repair & Maintenance
Other Expenses
Total

EQUIPMENT AND INTANGIBLE

Equipment
Intangible Assets
Total

GRANTS

From State Sources
From Federal Sources
From Other Sources
Total

BENEFITS & CLAIMS

From State Sources
From Federal Sources
Total

TOTAL PROGRAM EXPENDITURES

GENERAL FUND

Budgeted
Actual
Unspent Budget Authority

SPECIAL REVENUE FUNDS

Budgeted
Actual
Unspent Budget Authority

INTERNAL SERVICE FUNDS

Budgeted
Actual
Unspent Budget Authority

This schedule is prepared

DEPARTMENT OF HEALTH & ENVIRONMENTAL SCIENCES
 SCHEDULE OF BUDGETED PROGRAM EXPENDITURES BY OBJECT & FUND - B
 FOR THE FISCAL YEAR ENDED JUNE 30, 1993

NET & ACTUAL

	Director's Office	Central Services	Environmental Sciences	Solid/Hazardous Waste	Water Quality	Health Services/Medical Facility	Family/MCH Bureau	Preventive Health Bureau	Health Facilities Division	Petro Tank Release Comp Board	Total
PERSONAL SERVICES											
Salaries	\$476,855	\$1,558,709	\$1,410,171	\$1,930,568	\$1,923,038	\$776,901	767,348	\$570,693	\$1,362,782	\$441,526	\$11,218,591
Other Compensation	2,575				150						2,725
Employee Benefits	102,723	413,519	322,238	470,544	455,395	178,185	186,901	138,608	312,810	106,298	2,687,221
Total	<u>582,153</u>	<u>1,972,228</u>	<u>1,732,409</u>	<u>2,401,112</u>	<u>2,378,583</u>	<u>955,086</u>	<u>954,249</u>	<u>709,301</u>	<u>1,675,592</u>	<u>547,824</u>	<u>13,908,537</u>
OPERATING EXPENSES											
Other Services	30,950	296,286	2,497,783	2,186,480	793,379	556,224	1,801,452	612,967	28,618	89,620	8,893,759
Supplies & Materials	12,455	298,850	66,076	76,518	73,939	82,136	57,341	210,606	15,777	23,668	917,366
Communications	6,569	79,346	47,255	89,380	76,884	65,778	37,473	48,152	33,930	22,412	507,179
Travel	5,981	5,988	73,365	105,384	139,241	112,396	144,992	38,601	163,765	36,977	826,690
Rent	14,823	96,861	71,302	109,873	70,389	42,591	34,819	22,513	67,133	27,285	557,517
Utilities		6,480	3,322	10,523		417		160	2,752	4,030	27,684
Repair & Maintenance	3,626	65,908	10,504	8,141	7,651	6,165	6,761	3,622	4,016	1,266	117,660
Other Expenses	40,965	181,520	329,459	460,147	463,904	158,154	169,973	117,259	263,628	96,366	2,281,375
Total	<u>115,369</u>	<u>1,031,239</u>	<u>3,099,066</u>	<u>3,046,446</u>	<u>1,625,387</u>	<u>1,023,789</u>	<u>2,252,811</u>	<u>1,053,880</u>	<u>579,619</u>	<u>301,624</u>	<u>14,129,230</u>
EQUIPMENT AND INTANGIBLE ASSET											
Equipment		36,893	85,737	32,021	59,282	77,266	38,288	4,116		15,115	348,718
Intangible Assets		3,931			1,153					288	5,372
Total		<u>40,824</u>	<u>85,737</u>	<u>32,021</u>	<u>60,435</u>	<u>77,266</u>	<u>38,288</u>	<u>4,116</u>		<u>15,403</u>	<u>354,090</u>
GRANTS											
From State Sources			54,881	54,302							109,183
From Federal Sources			136,219		38,903	2,420	10,398,665	11,968			10,588,175
From Other Sources				780,811	111,862	378,057					1,270,730
Total			<u>191,100</u>	<u>835,113</u>	<u>150,765</u>	<u>380,477</u>	<u>10,398,665</u>	<u>11,968</u>			<u>11,968,088</u>
BENEFITS & CLAIMS											
From State Sources										2,960,966	2,960,966
From Federal Sources							7,324,846			288	7,324,846
Total							<u>7,324,846</u>			<u>2,960,966</u>	<u>10,285,812</u>
TOTAL PROGRAM EXPENDITURES	<u>\$697,522</u>	<u>\$3,044,291</u>	<u>\$5,108,312</u>	<u>\$6,314,692</u>	<u>\$4,215,170</u>	<u>\$2,436,618</u>	<u>10,968,859</u>	<u>\$1,779,265</u>	<u>\$2,255,211</u>	<u>\$3,825,817</u>	<u>\$50,645,757</u>
GENERAL FUND											
Budgeted	\$161,212	\$516,696	\$361,744	\$176,863	\$364,330	\$884,660	813,382	\$95,036	\$489,550		\$3,863,473
Actual	160,280	515,772	347,913	135,176	319,794	871,493	809,706	89,037	469,769		3,718,945
Unspent Budget Authority	<u>\$932</u>	<u>\$924</u>	<u>\$13,831</u>	<u>\$41,687</u>	<u>\$44,536</u>	<u>\$13,162</u>	<u>3,676</u>	<u>\$5,999</u>	<u>\$19,781</u>		<u>\$144,528</u>
SPECIAL REVENUE FUNDS											
Budgeted	\$47,336	\$1,531,502	\$5,833,967	\$11,701,596	\$6,388,266	\$1,898,281	21,202,818	\$2,032,319	\$2,175,182	\$4,400,000	\$57,211,267
Actual	28,607	1,424,567	4,597,604	6,179,516	3,895,376	1,565,120	20,159,153	1,690,228	1,785,442	3,825,817	45,151,430
Unspent Budget Authority	<u>\$18,729</u>	<u>\$106,935</u>	<u>\$1,236,363</u>	<u>\$5,522,080</u>	<u>\$2,492,890</u>	<u>\$333,161</u>	<u>1,043,665</u>	<u>\$342,091</u>	<u>\$389,740</u>	<u>\$574,183</u>	<u>\$12,059,837</u>
INTERNAL SERVICE FUNDS											
Budgeted	\$511,159	\$1,132,767	\$163,222								\$1,807,148
Actual	508,635	1,103,952	162,795								1,775,382
Unspent Budget Authority	<u>\$2,524</u>	<u>\$28,815</u>	<u>\$627</u>								<u>\$31,766</u>

This schedule is prepared from the Statewide Budgeting and Accounting System. Additional information is provided in the notes to the financial schedules beginning on page A-9.

Notes to the Financial Schedules

For the Two Fiscal Years Ended June 30, 1994

1. **Summary of Significant Accounting Policies**

Basis of Accounting

The department uses the modified accrual basis of accounting, as defined by state accounting policy, for its Governmental Funds. In applying the modified accrual basis, the department records:

Revenues when it receives cash or when receipts are measurable and available to pay current period liabilities.

Expenditures for valid obligations when the department incurs the related liability and it is measurable.

The cost of employees' annual leave and sick leave when used or paid.

The department uses accrual basis accounting for Proprietary Funds. Under the accrual basis, as defined by state accounting policy, the department records revenues in the accounting period earned, if measurable, and records expenses in the period incurred, if measurable.

Expenditures and expenses may include entire budgeted service contracts even though the department received the services in a subsequent fiscal year. Expenditures and expenses may also include goods and equipment ordered with a purchase order before fiscal year-end, but not received as of fiscal year-end.

Basis of Presentation

The financial schedule format is in accordance with the policy of the Legislative Audit Committee. The financial schedules are prepared from the Statewide Budgeting and Accounting System without adjustment. Accounts are organized in funds according to state law. The department uses the following funds:

Governmental Funds

General Fund - to account for all financial resources except those required to be accounted for in another fund. The department's General Fund support is used to meet maintenance of effort requirements on the Environmental Protection Agency Air

Notes to the Financial Schedules

Quality grant, to completely fund state licensure and Montana Health Care Authority activities, and to match federal funds for Medicaid certification activities for all health care providers.

Special Revenue Fund - to account for proceeds of specific revenue sources legally restricted to expenditures for specific purposes. Department Special Revenue Funds include federal activity such as the Wastewater Treatment Grant and other Environmental Protection Agency grants; the Maternal and Preventative Health Block Grant; the Women, Infants, and Children Program; and Child Nutrition Program. State Special Revenue Funds include the petroleum storage tank cleanup, hazardous waste/Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), underground storage tank, leak prevention, solid waste management, air quality, public drinking water, subdivision plat review, environmental quality protection, laboratory testing, and junk vehicle programs.

Proprietary Funds

Internal Service Fund - to account for providing goods or services to other agencies or departments on a cost-reimbursement basis. Department Internal Service Funds include indirect charges assessed against all units of the department by the director's office and Centralized Services Division for providing department-wide support functions and services. The Environmental Science Division's (see note 8 on page A-13) administrative costs are supported through indirect charges made against all funding sources in the division.

2. Annual and Sick Leave

Employees at the department accumulate both annual and sick leave. The department pays employees for 100 percent of unused annual and Fair Labor Standards Act (compensatory) leave credits and 25 percent of unused sick leave credits upon termination. Accumulated unpaid liabilities for annual, compensatory, and sick leave are not reflected in accompanying financial schedules. In the Proprietary Funds, the increase in the annual and compensatory leave liability and 25 percent of the increase in the sick leave liability are recognized as nonbudgeted expenses when the related liability is recorded at year-end. The department absorbs expenditures for termination pay in its

Notes to the Financial Schedules

annual operational costs. At June 30, 1994, the department had a liability of \$1,003,578 for annual leave, \$511,753 for sick leave, and \$38,432 for compensatory leave. Of the \$1,553,763 total for compensated leave, \$201,502 was a liability of the Internal Service Funds and \$1,352,261 was a liability of other funds.

-
- 3. Pension Plan**
- Employees are covered by the Montana Public Employees' Retirement System (PERS). The department's contribution to PERS was \$778,202 in fiscal year 1992-93 and \$896,329 in fiscal year 1993-94.
-
- 4. General Fund Balance**
- The General Fund is a statewide fund. Each agency does not have a separate General Fund since their only authority is to pay obligations from the statewide General Fund within their appropriation limits. Thus, on an agency's schedules, the General Fund beginning and ending fund balance will always be zero.
-
- 5. Cash Transfers In**
- The department is statutorily allocated a percentage of the Resource Indemnity Trust (RIT) Fund interest. In fiscal years 1992-93 and 1993-94, the Department of Revenue transferred \$1,387,031 and \$805,803, respectively, in interest earned on the RIT. The department receives two separate allocations of RIT interest. The percentage allocated increased from 4 percent to 5 1/2 percent for the environmental quality protection allocation, and from 12 percent to 18 percent for the hazardous waste/CERCLA allocation, between these two fiscal years. However, the RIT interest earnings decreased substantially between the two fiscal years, resulting in the decreased transfers.
- In fiscal year 1989-90, the Petroleum Tank Release Compensation Board was established. Money is collected in the amount of .75 cent per gallon of gasoline distributed within the state after July 1, 1991, and .75 cent for each gallon of aviation gasoline, special fuel, and heating oil distributed after July 1, 1993. The Department of Transportation is responsible for collecting the fees and depositing the money in the Department of Health and Environmental Sciences' Petroleum Storage Tank Cleanup account. The Petroleum Storage Tank Cleanup account reached

Notes to the Financial Schedules

a statutory cap on collections. As a result, the gasoline fee was not imposed from October 1, 1991 to July 31, 1993. Beginning August 1, 1993, the unobligated fund balance fell below its statutory limit and fees were imposed and collected again. The Department of Health and Environmental Sciences received \$4,967,453, in fiscal year 1993-94 from the gasoline fees.

When the Natural Resource Damage Assessment Program was moved to the Department of Justice in fiscal year 1993-94, the department had a cash transfer debit amount of \$1,214,663 that was not eliminated from its accounting records. Had that occurred, the Cash Transfers In amount for fiscal year 1993-94 would have been \$5,785,414.

6. Nonbudgeted Transfers Out

The U.S. Environmental Protection Agency (EPA) implemented the state Water Pollution Control Revolving Fund Capitalization Grant Program (SRF) as required by the Clean Water Act. The program awards grants to states to capitalize funds that will provide assistance for water pollution control purposes. In coordination with the Department of Natural Resources and Conservation, the department records a nonbudgeted transfer out for SRF loans to municipalities for construction of treatment works, or development and implementation of pollution control programs and plans. The department recorded nonbudgeted transfers out of \$4,190,265 and \$3,760,909 in fiscal years 1992-93 and 1993-94, respectively, for these purposes.

7. Revenue Changes

Major changes affecting the department's revenue sources during fiscal years 1992-93 and 1993-94 are summarized below.

Licenses and Permits

Revenue related to Subdivision Plat Review of \$418,960 was recorded in the General Fund in fiscal year 1992-93. This revenue source increased to \$540,033 and was moved to the Special Revenue Fund in fiscal year 1993-94. Special Revenue licenses and permits also increased in fiscal year 1993-94 due to collection of newly implemented or increased fees related to the National Pollution Discharge Elimination System (\$544,641), Air Quality (\$476,630), and Sulphur Dioxide (\$120,039).

Notes to the Financial Schedules

Charges for Services

Legal Services were funded through charges for services in fiscal year 1992-93 and through indirect cost recoveries in fiscal year 1993-94.

Contributions and Premiums

This revenue source was transferred with the Natural Resource Damage Assessment Program to the Department of Justice in fiscal year 1993-94.

Federal Indirect Cost Recoveries

The department negotiates federal indirect cost rates each year. The decrease in federal indirect cost recoveries revenue between fiscal year 1992-93 and fiscal year 1993-94 resulted from a decrease in these negotiated rates.

8. Program Changes

In fiscal year 1993-94, the department reorganized its Environmental Sciences Division Programs (Environmental Sciences, Water Quality, and Solid and Hazardous Waste) into the Air Quality Division, Water Quality Division, Environmental Remediation Division, and Waste Management Division Programs. Vital Statistics and Records transferred from Centralized Services Division to Health Services Division, and the personnel function moved to Centralized Services Division from the Director's Office.

The 1993 Legislature established the Montana Health Care Authority effective in fiscal year 1993-94. The authority is responsible for establishing a health care plan for the state of Montana.

Agency Response

DEPARTMENT OF
HEALTH AND ENVIRONMENTAL SCIENCES
DIRECTOR'S OFFICE

COGSWELL BUILDING
1400 BROADWAY
PO BOX 200901



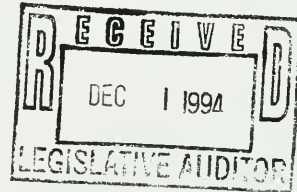
STATE OF MONTANA

(406) 444-2544 (OFFICE)
(406) 444-1804 (FAX)

HELENA, MONTANA 59620-0901

November 30, 1994

Mr. Scott A. Seacat
Legislative Auditor
Office of the Legislative Auditor
State Capitol
Helena, Montana 59620-1705



Dear Mr. Seacat,

By this letter, I am transmitting the department's formal response to your Fiscal-Compliance Audit for the two fiscal years ended June 30, 1994 for the Department of Health and Environmental Sciences.

Of the 11 recommendations contained in the audit report, we have concurred with ten of the recommendations, and have not concurred with one.

I would like to personally thank your office and the audit staff that was assigned to this endeavor for their dedication and professionalism throughout the course of this audit. Their findings and subsequent recommendations have provided a valuable service and insight to department management relative to our fiscal-compliance responsibilities.

I will be available, along with appropriate staff, for the scheduled December meeting of the Legislative Audit Committee.

Sincerely,

Handwritten signature of Robert J. Robinson.
Robert J. Robinson

Director
Department of Health and Environmental Sciences

cc: Charles Stohl, Acting Administrator,
Centralized Services Division

Page B-3

DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES
RESPONSES TO FISCAL-COMPLIANCE AUDIT
FOR
THE TWO FISCAL YEARS ENDED JUNE 30, 1994

NOVEMBER 30, 1994

Recommendation #1

We recommend the department:

- A. Develop appropriate department-wide policies and procedures in a timely manner.
- B. Ensure policies and procedures are communicated to and followed by employees.

Response

A. **Concur**

Department management has recognized for some time now that its Policy and Procedures manual is incomplete and, in some cases, individual policies are out of date. In many instances, director's office or division level memorandum has served as the vehicle for establishing policy and other forms of written guidance in carrying out program responsibilities. The department has an ongoing policy review process which began in 1993 with our Fair Labor Standard Act compliance policy. That effort continues with development of a policy and procedures manual for enforcement and compliance responsibilities and the development of the following new policies that are now ready for official approval and distribution: new personnel policies, conflict of interest policy, and public access to department records policy.

The department's division administrators, working with the director's office staff, will identify other areas in need of policy or policy updates. Once these areas are identified, then priorities will be assigned to each subject area, and specific assignments will be made to appropriate staff for the development of draft policy that can then be reviewed, and eventually promulgated into official department policy and procedures.

The department proposes to take the following action to implement this recommendation:

1. Director's office will continue the policy review process through three weekly meetings with division administrators to identify major policy deficiencies. These reviews, which will be part of the routine weekly staff meeting, will be dedicated to policy review agenda issues, will initiate on November 29, 1994 and continue through December 13, 1994.
2. Director's office will prioritize all identified policy development agenda items by December 31, 1994.
3. Assignments for draft policy work will be made during the January 1995 staff meetings.
4. Routine review of draft policies will commence in February 1995 and continue until all noted policies have been fully promulgated as official policy documents. This initial process will be completed no later than May 1, 1995. Since this process is developmental in nature, subsequent policy development work will continue as a matter of routine business in order to keep the policy manual current, timely, and up to date.

B. Concur

The department intends to replace the hard copy manuals with a computer application that would allow the entire policy and procedural manual to be accessed through the agency's computer network. One hard copy manual would be maintained in the director's office and in each building where DHES staff are located. In this manner, and through appropriate training, all department policies will be accessible to all employees via a menu selection process or hard copy. This capability will be available by June 1, 1995.

Recommendation #2

We recommend the department ensure employees charge their time to the accounts benefitting from their activities.

Response:

Concur

However, the department would like to comment on two issues raised by the audit staff: (1) There was a statement in the audit that an agency employee was operating under agency direction to spend state monies before federal grant funds. The rationale for this was that federal grant funds, if not spent, can be carried forward whereas state funds revert and are unavailable for future use. The department would like to emphasize that this is not the policy of the department and our findings demonstrate that this is not a pervasive

misconception throughout agency staff. Nonetheless, a memorandum was recently issued to clarify the agency's position in this matter and a discussion to clarify this point was held during a staff meeting of supervisory personnel. (2) The audit staff findings relative to instances wherein employees were reporting their time against inappropriate accounts were valid findings, but in the opinion of the agency, such a finding does not reflect a pervasive practice throughout the department. In fact, in those instances that were found by the audit staff, the agency had already initiated corrective action.

Irrespective of the above, the department proposes to take the following action to implement this recommendation: the director, through his division administrators, will emphasize current department policy to all supervisory staff in order to ensure that employee time is being reported correctly. Additionally, the department will continue to conduct random internal audits of employee time sheets, especially in areas where employees must report time to multiple responsibility centers, as a means of ensuring compliance with department policy.

Recommendation #3

We recommend the department:

- A. Improve its subrecipient monitoring procedures to include all subrecipients receiving at least \$25,000 in federal assistance annually.
- B. Clarify the subrecipient monitoring procedures in its Policy and Procedures Manual.

Response

A. Concur

We will modify the contracts data base to alert the internal auditor of all audits required from subrecipients receiving \$25,000 annually. This system will indicate when the audit report is due, when it is received, corrective action required if any, and the date the audit was closed. Work on this modification will commence immediately and will be completed, tested, and operational by July 1, 1995.

B. Concur

We will review our subrecipient monitoring policy and make changes to more clearly delineate responsibilities for subrecipient monitoring. This issue will be discussed during contract management training classes to begin in December

1994. Policy changes will be made and distributed by March 31, 1995.

Recommendation #4

We recommend the department continue implementation of its drug-free workplace policy in compliance with federal regulations.

Response

Concur

The Department has added procedures to assure all new employees are informed of this policy. We will continue to keep employees informed of changes in this policy as they occur.

Recommendation #5

We recommend the department adopt policies and implement procedures to ensure security over computer data and information resources in accordance with state law.

Response

Concur

The department is adopting a policy regarding computer security and will continually update procedures regarding it. The current policy will be updated and distributed by February 15, 1995.

Recommendation #6

We recommend the department:

- A. Amend its permit fee rules to correctly reflect the applicable statutory requirements.
- B. If necessary, seek legislation to incorporate and clarify items from the Chapter 507 statement of intent into section 75-5-516, MCA.

Response

A. Do Not Concur

The department will pursue the alternative in 6B to address this situation.

B. Concur

The department has submitted proposed legislation to the Legislative Council that will incorporate and clarify items from Chapter 507's statement of intent into section 75-5-516, MCA.

Recommendation #7

We recommend the department establish a formal administrative structure to strengthen its water permit fee process.

Response

Concur

The department is committed to improve the process used to determine and track appropriate permit fees. The department would like to clarify some of the findings upon which this recommendation was made and provide additional information as to the steps being taken to implement this recommendation.

The following steps have been conducted to establish a water fee tracking system:

1. Create an interim fee tracking system
using Lotus ----- Completed
2. Develop a formal process for calculating,
tracking, and managing fees ----- 12/31/94
(A computer systems contractor, GOLD SYSTEMS, INC. is
currently under contract to develop such a system using
an Advanced Revelations program)

In the interim, fees have been calculated manually. The water quality division determined that initial calculations would be developed manually so that problems could be identified and criteria developed to incorporate into a formalized computer program. Using guidance and direction from the permit program supervisor, each of the technical staff made initial fee calculations. Those calculations were then reviewed by the entire staff and program supervisor to ensure consistency in fee calculation. Once the formal computerized process is in place, it is envisioned that the process can be completed by one administrative support person.

Flow rate fees were not miscalculated as indicated in the audit findings. Flow rate fees are calculated on a yearly average flow rate basis for all permittees. Intermittent discharges may have caused some confusion for the auditors who may have assumed high discharge flows occurred all year long. This was particularly true in the case of one facility which discharges very high flows during spring runoff but has little or no discharge during the remainder of the year. This misunderstanding on the part of the audit staff, when they

attempted to recalculate fees for some of the permittees, resulted in a miscalculation of fees which ultimately led them to conclude that the agency's calculations significantly understated the fees in a number of instances.

Recommendation #8

We recommend the department implement random compliance inspections to verify permittee data and ensure fee calculations are accurate and complete.

Response

Concur

The possibility of random compliance inspections by Department staff ensures the effectiveness of the existing self monitoring provision of the permit program. With over 400 discharges, the Department lacks staff to conduct compliance inspections of all facilities each year. While compliance inspections were conducted on more than the 45 major permittees during the past year, we acknowledge that an increased inspection presence is necessary. During the past year, the Department has assigned a higher priority to permit renewals than compliance inspections. The Department has implemented a process to address the renewal workload by March 1, 1995 which will then allow staff to conduct additional compliance inspections during the spring and summer months. The additional staff authorized by the 1993 legislature will allow the Department to increase the number of compliance inspections of minor discharges.

Recommendation #9

We recommend the department seek legislation regarding the Water Pollution Control Advisory Council to make the council's meeting requirements more flexible.

Response

Concur

We will modify a current legislative bill drafting request dealing with other water quality housekeeping issues to also incorporate language which will eliminate the mandatory meeting requirement of the advisory council. Additionally, the department plans to call an initial meeting of the new Council by March 15, 1995 to initiate members to current water quality issues and begin a planning process for future Council activities.

Recommendation #10

We recommend the department seek legislation to appropriately revise state law regarding matching funds for local water pollution control facilities.

Response

Do Not Concur

The department recognizes that the Board of Health and Environmental Sciences has not published rules and set standards for the use of matching funds by local governments as required by 75-5-501, MCA. It should be noted that although state matching funds were, at one time, required for a corresponding increase in federal grant amounts for the construction of water pollution control facilities, the grant program has since been converted into a revolving loan program where there are no current requirements for matching state funds for federal construction loans and it is unlikely that matching funds will be required in the near future. Formerly in the grant program, a State match of 25% resulted in an increase in the federal grant participation from 30% to as much as 55% of the actual project costs. The Montana legislature had appropriated funds for that purpose. The issue before the department in view of this audit recommendation is whether or not the current law, reflecting requirements for the former grant program, should be repealed or amended. Since this recommendation surfaced late in the legislative bill drafting process and since, in the opinion of the agency, this issue is not significant in its importance to the functioning of the current loan program, the more prudent approach to the situation would be to leave this provision of law in place and if in the future the federal requirements change back to a matching fund situation, then the Board could publish rules and set standards without the need for a statutory amendment to the law.

Recommendation #11

We recommend the department record financial activity in accordance with state accounting laws and policies.

Response

Concur

The department will review the accounts noted in the audit and assure that they are treated correctly at the end of the fiscal year ending June of 1995. It is within the year end closing activities that problems such as those identified by the audit staff will occur, and it is, therefore, during that same time that the department will be extra cautious to ensure similar problems are appropriately handled.

